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*Attorneys for Plaintiffs***UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**12 SANDRA KIRKMAN, CARLOS  
13 ALANIZ, individually and successors-  
in-interest to JOHN ALANIZ, deceased,

14 Plaintiffs,

16 v.

17 STATE OF CALIFORNIA, RAMON  
18 SILVA, and DOES 1-10, inclusive,

19 Defendants.

Case No. 2:23-cv-07532-DMG-SSC

*Honorable Dolly M. Gee  
Hon. Mag. Judge Stephanie S.  
Christensen***PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION IN  
LIMINE #1 TO EXCLUDE LAY  
WITNESS OPINIONS VIDEO  
COMMENTARY**

Judge: Dolly M. Gee

Hearing: March 25, 2025

Time: 2:00 p.m.

Dept.: Courtroom 8C

FPTC: March 25, 2025

Trial: April 15, 2025

1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   Witnesses Immanuel Clark is entitled to testify about his personal  
3 observations and opinions of the shooting of John Alaniz. Federal Rule of Civil  
4 Procedure 701 provides that such testimony is admissible if “the witness’ testimony  
5 in the form of opinions or inferences is limited to those opinions or inferences which  
6 are (a) rationally based on the perception of the witness, (b) helpful to a clear  
7 understanding of the witness’ testimony or the determination of a fact in issue, and  
8 (c) not based on scientific, technical, or other specialized knowledge within the  
9 scope of Rule 702.” Fed. R. Evid. 701.

10                  Clark will testify to what he personally observed before, during, and after the  
11 incident. His testimony is admissible under Rule 701 as it is grounded in firsthand  
12 observations and will help the jury assess the facts of the case. See *U.S. v.*  
13 *Henderson*, 68 F.3d 323, 325–27 (9th Cir. 1995) (affirming admissibility of lay  
14 opinion based on personal perception).

15                  Clark is also expected to offer lay opinions, including that Alaniz did not  
16 appear to have a gun, he did not appear to be about to shoot anyone, he did not  
17 appear to be a serious threat to anyone, and there were alternative means of  
18 resolving this conflict. These are the types of reasonable inferences permitted under  
19 Rule 701. *United States v. Vasquez*, 540 F. App'x 623, 627 (9th Cir. 2013) (lay  
20 opinion regarding whether a person was “aggressive,” because it was rationally  
21 based on observations); *Stanhope v. Schriro*, No. CV 07-02 TUCDCB, 2008 WL  
22 1927362, at \*2 (D. Ariz. Apr. 29, 2008), report and recommendation adopted, No.  
23 CV 07-02 TUC DCB, 2008 WL 2388262 (D. Ariz. June 9, 2008) (lay witness can  
24 give lay opinions regarding whether injuries are “life threatening”).

25                  Defendants’ motion to exclude Clark’s lay opinions is particularly  
26 unconvincing given that they relied on similar lay opinions in their own Motion for  
27 Summary Judgment. Specifically, they cited Van Dragt and Silva’s lay opinions  
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1 that: (1) Alaniz posed a serious threat (e.g., SUF 24, 32, 36, 38, 40, 50, 52); (2)  
2 Alaniz appeared to have a gun and looked like he would shoot Silva; and (3) that  
3 there were no alternative but to use deadly force (SUF 52, 54). (Dkt. 66-2.)  
4 Defendants cannot now argue that lay opinions on these exact same topics are  
5 inadmissible simply because they come from a witness whose account contradicts  
6 theirs. Such an approach would be fundamentally unfair and inconsistent with Rule  
7 701.

8 Moreover, Defendants are likely to argue at trial that Officer Silva acted  
9 reasonably under the circumstances, even if he was mistaken about key facts, due to  
10 the pressure of a rapidly evolving situation. Testimony from another eyewitness who  
11 experienced the same events but reached different conclusions about critical facts is  
12 highly relevant to rebutting Defendants' narrative.

13 For these reasons, Plaintiffs request that the Court deny Defendants' first  
14 motion in limine (Dkt. 80).

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18 DATED: March 21, 2025

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By: /s/ Cooper Alison-Mayne  
21 Dale K. Galipo  
22 Cooper Alison-Mayne  
23 Attorneys for Plaintiffs

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